THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.2156 of 2007

Date: 19.02.2007

Between:
S.Rajender.

....Petitioner

and

The Regional Transport Officer.

....Respondent

O R D E R:

The petitioner challenges the notice, dated 10.09.2003, issued by the Regional Transport Authority, Adilabad, the respondent herein.

The petitioner is the owner of a vehicle. It was engaged in the transport of cement to various destinations. Through the impugned notice, the respondent made a reference to the report of vigilance and executive staff of the department and sought to proceed against the petitioner on the ground that on certain earlier occasions, the petitioner had overloaded the vehicle. The particulars of instances of overloading were also furnished.

The petitioner states that the impugned notice is contrary to Section 114 of the Motor Vehicles Act, 1989 (for short 'the Act') and other related provisions of the Act and the Rules made thereunder. According to him, the question of initiation of action against a vehicle on the ground of overloading would arise, if only, it is stopped on weighment at the nearest over bridge as provided for under Section 114 of the Act.

The learned Government Pleader for Transport, on the other hand, submits that there is ample evidence against the petitioner to indicate that the vehicle was overloaded and action can, certainly, be initiated against the petitioner. It is also stated that

the petitioner can submit the explanation to the proposed action.

The question as to whether an authority under the Act can initiate action on the basis of a report submitted by the vigilance wing indicating the circumstances of overloading on a previous occasion was dealt with by this Court in **M.MURALIDHAR REDDY v DEPUTY TRANSPORT COMMISSIONER AND SECRETARY, RTA, KURNOOL**[1]**.** After referring to the relevant provisions of the Act and the Rules made thereunder, this Court held that no action can be initiated against a vehicle or its owner for the alleged instances of overloading pertaining to the past period. Specific reference was made to Section 114 of the Act and it was held that punitive action for overloading a vehicle is resisted to the circumstances pointed out therein.

Following the same, the writ petition is allowed and the impugned notice is set aside. There shall be no order as to costs.

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19.02.2007

kdl

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[1] 2003(5) ALD 1)